

CALIFORNIA ENERGY COMMISSION

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March 9, 2005

CALIF ENERGY COMMISSION

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RECEIVED IN DOCKETS

Carl W. Boyd
Strategic Energy
Regulatory Compliance & Licensing
Two Gateway Center
Pittsburg, PA. 15222

RE: APPLICATION FOR DESIGNATION OF CONFIDENTIALITY
Electricity Demand Forecast Data, Docket No. 04-IEP-1D

Mr. Boyd:

On February 9, 2005, Strategic Energy filed Demand Forecast forms 1.1, 1.3, 1.6, 2.3, 2.4, 4, and 6 for use in the Energy Commission's 2005 Integrated Energy Policy Report proceeding. As part of that filing, Strategic Energy is seeking a designation of confidentiality for the forms that were submitted.

Strategic Energy's application for confidentiality (application) states, in part:

[A]pplicant requests that all of the information and data requested above in Forms 1.1; 1.3; 1.6; 2.3; 2.4; 4; and Form 6 and the supporting workpapers [sic] be designated as confidential. Applicant requests further that the designation of confidentiality be permanent. Applicant cannot foresee all the possible ways in which disclosure of information about is [sic] historical and forecasted revenue requirements could cause Applicant competitive harm in the future.

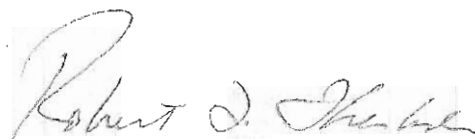
The California Public Records Act allows for non-disclosure of trade secrets. (Gov. Code, § 6254(k), Evid. Code, § 1060.) The California Courts have traditionally used the following definition of trade secret:

a trade secret may consist of any formula, pattern, device or compilation of information which is used in one's business, and which gives him an opportunity to obtain an advantage over competitors who do not know or use it. . . . (*Uribe v. Howie* (1971) 19 Cal.App.3d 194, 207-208, 96 Cal.Rptr. 493, 500-501, from the Restatement of Torts, vol. 4, sec. 757, comment b, p. 5.)

Strategic Energy's application of February 9, 2005, makes a reasonable argument under the Energy Commission's regulations for classifying some of the information contained in your application as confidential since it could provide your competitors with a competitive advantage if made public. (Gov. Code, § 6254 (k); Cal. Code Regs., tit. 20, § 2505.) Accordingly, all the information contained in forms 1.6, 2.3, and 2.4 will be given confidentiality for three years from the date of this letter. With regards to forms 1.1 and 1.3, confidentiality will be given to the geographic location (sector) data for three years from the date of this letter. All other information contained in forms 1.1 and 1.3 (columns labeled "Total," "Total Peak," and "Average Annual Growth Rate") are deemed public and will not be given confidentiality since this aggregated information is not sufficiently detailed to provide others with a competitive business advantage. In addition, Strategic Energy's rationale for designating the information contained in forms 4 and 6 is unconvincing since the data contained therein is neither commercially sensitive nor would it provide your competitors with a competitive advantage if made public. Finally, confidentiality will be given to supporting work papers to the extent the information contained therein corresponds to confidential information contained in forms 1.1, 1.3, 1.6, 2.3, and 2.4 for three years from the date of this letter.

The procedures and criteria for appealing this decision are set forth in the California Code of Regulations, title 20, section 2505. Be advised that an appeal of this decision, to deny portions of your application, must be filed within fourteen days from my decision. If you have any further questions regarding this decision, please contact Fernando De Leon, Senior Staff Counsel, at (916) 654-4873.

Sincerely,



ROBERT L. THERKELSEN
Executive Director

cc: Docket Unit